



2026:AHC:74803-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**FIRST APPEAL DEFECTIVE No. - 321 of 2026**

Tej Bahadur Maurya

.....Appellant(s)

Versus

Smt. Nisha Maurya

.....Respondent(s)

Counsel for Appellant(s) : Abhishek Pratap Singh, Satish Chandra  
Yadav, Vaibhav Goswami

Counsel for Respondent(s) :

**Court No. - 2**

**HON'BLE ATUL SREEDHARAN, J.  
HON'BLE VIVEK SARAN, J.**

**Re : Civil Misc. Delay Condonation Application No. 02 of 2026**

1. Application is filed for condoning the delay of 72 days in filing the appeal.
2. In view of what has been stated in the application, the delay is condoned.
3. The delay condonation application is **allowed**.
4. Office is requested to allot regular number to the appeal.

**Re : Order on the Appeal**

1. The present appeal has been filed by the appellant against order dated 17.11.2025 passed by Additional Principal Judge of learned Family Court, Prayagraj, in an application under Section 24 of the Hindu Marriage Act, 1955, filed by the respondent-wife for maintenance pendente lite.
2. The case of the appellant is that the learned trial court has gone and laden him with expenditure of Rs. 4,000/- per month to be paid to his wife as maintenance pendente lite under the aforementioned provision, without even going through his financial condition. Learned counsel for the appellant also submits that he had filed the details pertaining to his income, expenditure and other liabilities before the learned trial court,

which has not been taken into cognizance while passing the impugned order. Learned counsel for the appellant further submits that the wife is living with another man and there was a mutual separation between the two entered on affidavit and the same has been overlooked by the learned trial court while awarding the maintenance.

3. This Court has gone through the impugned order. As regards the allegations made by the learned counsel for the appellant, the learned trial court has considered the same. It has relied upon the replication given by the respondent-wife to the effect that the allegations made in opposition of the application under Section 24 of the Hindu Marriage Act, 1955 are false, fabricated and made only to defame her in the judicial proceedings. As regards, the affidavit jointly prepared by both the parties, the respondent in her replication, has stated before the learned trial court that the same was obtained from her through deceit as she is not well educated. The learned trial court has considered the combined effect of all these submissions of both the parties and arrived at a conclusion that since these facts are disputed, the same would have to be proved during course of the trial.

4. As regards the prayer of the respondent-wife that she also has to bear the burden of maintaining her children and she is without any source of independent income, the learned trial court has held that she is at liberty to initiate independent proceedings for the maintenance of her children separately, but under Section 24 of the Hindu Marriage Act, 1955, it can only be the husband or a wife who could claim maintenance during the pendency of the said petition from the other. After considering the sum totality of the facts, the learned trial court has gone and passed the impugned order and directed the appellant to pay maintenance of Rs. 4,000/- per month. The learned trial court has also directed the appellant herein to pay the arrears from 01.08.2024 to 17.11.2025 in five installments.

5. Having considered the reasonings given in the impugned order and the quantum of maintenance that has been imposed upon the appellant by the learned trial court, this Court is of the considered opinion that keeping in view the cost of living today, it cannot be said that the amount is in excess

and not affordable for the appellant. Besides, learned counsel for the appellant's argument that the appellant himself is only a labourer (with no further information relating to the same given to this Court), cannot be appreciated by this Court, as once a man marries a woman, he is bound under the law to maintain her. Such of those who feel that they cannot maintain a wife and children if the marriage goes sour, ought not to get married in the first place at all, but having done so, they cannot fall back on their poor financial condition to escape the responsibility of maintaining their wives during the course of the trial.

6. Therefore, this Court does not find any material infirmity in the impugned order. The appeal is **dismissed**.

(Vivek Saran,J.) (Atul Sreedharan,J.)

**April 7, 2026**

Jaideep/-